

UNITED STATES DISTRICT COURT

DISTRICT OF WYOMING

FILED
U.S. DISTRICT COURT
DISTRICT OF WYOMING

22 2010

UNITED STATES OF AMERICA

V.

Stephan Harris, Clerk
CRIMINAL COMPLAINT

GERARDO LOPEZ-LEDEZMA

CASE NUMBER: 10-MJ-237F

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief.

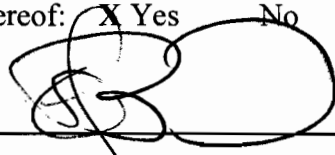
On or before November 15, 2010, in the District of Wyoming, the Defendant, **GERARDO LOPEZ-LEDEZMA**, an alien who had previously been deported, was found in the United States, at Washakie County, Wyoming, the said Defendant having not obtained the consent of the Attorney General of the United States, or his successor, the Secretary of Homeland Security, to reapply for admission into the United States.

In violation of 8 U.S.C. §§ 1326(a)(1) and (2).

I further state that I am a Deportation Officer and that this complaint is based on the following facts:

**SEE ATTACHED AFFIDAVIT OF DEPORTATION OFFICER
THOMAS O. BARTOS**

Continued on the attached sheet and made a part hereof: ☒ Yes ☐ No



Signature of Complainant
Thomas O. Bartos

Sworn to before me and subscribed in my presence,

November 22, 2010

at

Cheyenne, Wyoming

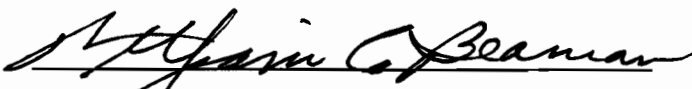
Date

City and State

Hon. William C. Beaman

United States Magistrate Judge

Name & Title of Judicial Officer



Signature of Judicial Officer

**AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT
DEPORTATION OFFICER THOMAS O. BARTOS
U.S. V. GERARDO LOPEZ-LEDEZMA**

1. I, Thomas O. Bartos, am a Deportation Officer of the United States Department of Homeland Security, Immigration and Customs Enforcement (hereafter referred to as ICE), assigned to the Cheyenne, Wyoming ICE office.

2. I have been employed as a Deportation Officer with the Detention & Removal Office in Cheyenne, Wyoming since October of 2008. I have over twelve years experience enforcing Immigration and Customs laws within the United States. I have successfully completed the Immigration Detention Enforcement Officer Academy Basic Training Course and the Deportation Officer Transition Training Program at the Federal Law Enforcement Training Center in Glynco, Georgia. Based on my training and experience in the investigation and enforcement of federal immigration laws and my investigation of the facts outlined below, I have reason to believe that **GERARDO LOPEZ-LEDEZMA** is unlawfully present in the United States after having been previously removed from the United States by ICE.

3. On or before November 15, 2010, **LOPEZ-LEDEZMA** was encountered at the Washakie County Jail, located in Worland, Wyoming, subsequent to an arrest by the Worland Police Department for the offense of Arson. ICE was notified on November 15, 2010; and an immigration detainer was placed on **LOPEZ-LEDEZMA**.

4. On November 15, 2010, Immigration Enforcement Agent (IEA) Jeanne Kaszuba in the Cheyenne, Wyoming ICE office obtained an inked set of **LOPEZ-LEDEZMA's** fingerprints

from the Washakie County Jail in Worland, Wyoming. These fingerprint images were submitted to ICE's biometric identification system (IDENT), and were found to match the pre-existing immigration record associated with **LOPEZ-LEDEZMA**. These fingerprints were also submitted to the Interagency Automated Fingerprint Identification System (IAFIS) and were found to match a pre-existing criminal record associated with **LOPEZ-LEDEZMA**.

5. On November 15, 2010, IEA Kaszuba reviewed the Computer Linked Application System (CLAIMS) database and found no record or indication that **LOPEZ-LEDEZMA** had applied to either the Attorney General of the United States or his successor, the Secretary of Homeland Security, for permission to re-enter the United States after having been formally removed.

6. On November 15, 2010, IEA Kaszuba reviewed documents received via facsimile from the Alien Registration File 096 196 877, pertaining to **LOPEZ-LEDEZMA**. The documents included: 1) a copy of the Order of the Immigration Judge, dated October 25, 2005, ordering **LOPEZ-LEDEZMA** be deported to Mexico; and 2) a government form I-205, (Warrant of Removal/Deportation) revealing **LOPEZ-LEDEZMA** had last been formally deported to Mexico at El Paso, Texas, on October 27, 2005.

7 On November 15, 2010, IEA Kaszuba conducted a telephonic interview of **LOPEZ-LEDEZMA** at Washakie County Jail, Worland, Wyoming. Prior to the interview, **LOPEZ-LEDEZMA** was advised of his *Miranda* Rights, after which **LOPEZ-LEDEZMA** chose to invoke those rights and not answer questions without the presence of an attorney. **LOPEZ-LEDEZMA** was also advised of his right to speak with an officer from the Mexican consulate, per the I-213 Record of Deportable/Inadmissible Alien form.

8. On November 22, 2010, your affiant reviewed the criminal history and the government form I-213 (Record of Deportable/Inadmissible Alien), related to **LOPEZ-LEDEZMA** which revealed the following: 1) a conviction for Battery, a misdemeanor, entered on September 19, 2005, in Washakie County, Wyoming, for which the sentence imposed was four months and twenty five days in jail. The charges of Arson were dismissed on November 22, 2010.

END OF AFFIDAVIT

PENALTY SUMMARY

DATE: November 22, 2010

DEFENDANT NAME: GERARDO LOPEZ-LEDEZMA

VICTIM: NO

OFFENSE AND PENALTIES:

OFFENSE: 8 U.S.C. §§ 1326(a)(1) and (2)
(Illegal Re-Entry of Previously deported Alien into the United States)

PENALTY: 0-2 YEARS IMPRISONMENT
\$250,000 FINE
3 YEAR SUPERVISED RELEASE
\$100 SPECIAL ASSESSMENT

AGENT: Thomas O. Bartos, ICE

AUSA: LISA E. LESHCUCK

ESTIMATED TIME OF TRIAL:

INTERPRETER NEEDED:

☒ five days or less
☐ over five days
☐ other

☒ Yes
☐ No

THE GOVERNMENT:

☒ will
☐ will not

☒ The court should not grant bond
because the defendant is not bondable
because there are detainers from other
jurisdictions **ICE DETAINER**

SEEK DETENTION IN THIS CASE.

DETAINER

File No. 096 196 877

Date: 11/22/2010

To:

U.S. MARSHAL SERVICE
CHEYENNE, WY

And any other involved agency

From: United States Department of Homeland Security
Bureau of Immigration and Customs Enforcement
308 West 21st Street
Cheyenne, Wyoming 82001
Telephone: (307) 772-2040 Fax: (307) 637-9667
1-800-973-2867

Name of alien: **Gerardo LOPEZ-Ledezma**

Date of Birth 09/07/1977

Nationality: Mexico

Sex: MALE

You are advised that the action noted below has been taken by the Bureau of Immigration and Customs Enforcement concerning the above-named inmate of your institution:

- ☒ Investigation has been initiated to determine whether this person is subject to removal from the United States.
- ☐ A Notice to Appear or other charging document initiating removal proceedings, a copy of which is attached, was served on _____ (Date)
- ☐ A warrant of arrest in removal proceedings, a copy of which is attached, was served on _____ (Date)
- ☐ Deportation or removal from the United States has been ordered.

It is requested that you:

Please accept this notice as a detainer. This is for notification purposes only and does not limit your discretion in any decision affecting the offender's classification, work and quarters assignments, or other treatment, which he or she would otherwise receive.

- ☒ Federal regulations (8 CFR 287.7) require that you detain the alien for a period not to exceed 48 hours (excluding Saturdays, Sundays and Federal holidays) to provide adequate time for Bureau of Immigration and Customs Enforcement to assume custody of the alien. You may notify the Bureau by calling (303) 371-5603 during business hours or (303) 826-8030 after hours in an emergency.
- ☒ Please complete and sign the bottom block of the duplicate of the form and return it to this office
Return fax to the attention of T. Bartos at 307.637.9667
- ☒ Notify this office of the time of release at least 30 days prior to release or as far in advance as possible.
- ☒ Notify this office in the event of the inmate's death or transfer to another institution.
- ☐ Please cancel the detainer previously placed by this Bureau on _____

Thomas O. Bartos
(Signature of Bureau official)

Deportation Officer
(Title of Bureau official)

Receipt acknowledged.

Date of latest conviction: _____ Latest conviction charge: _____

Release date: _____

Signature and title of official: _____